

**IN THE
SUPREME COURT OF INDIANA**

CASE NUMBER:

**ORDER AMENDING INDIANA RULES FOR ADMISSION AND
DISCIPLINE**

Under the authority vested in this Court to provide by rule for the procedure employed in all courts of this state and this Court's inherent authority to supervise the administration of all courts of this state, Rule 23(21) of the Indiana Rules for Admission to the Bar and the Discipline of Attorneys is amended to read as follows (deletions shown by ~~striking~~ and new text shown by underlining):

Section 21. Annual Registration Fee.

Funds necessary to enable the Commission to carry out its functions, obligations and duties under this rule shall be provided as follows:

- (a) *Annual Registration Fee—Active Attorneys.* Except as provided in subsection (b), each attorney who is a member of the bar of this Court on August 1, 1978, each attorney who is a member on August 1, of each year thereafter, and each attorney admitted pro hac vice pursuant to Admission and Discipline rule 3, Section 2, shall so long as the attorney is a member of the Bar of this Court, pay a registration fee of ninety dollars (\$90.00) a year on or before October 1 of such year. A delinquent fee in the amount of fifty dollars (\$50.00) shall be added to the registration fee for fees paid after October 1 and on or before October 15 of each year; a delinquent fee in the amount of one hundred dollars (\$100.00) shall be added to the registration fee for fees paid after October 15 and on or before December 31 of each year; and a delinquent fee in the amount of two hundred and fifty dollars (\$250.00) shall be added to the registration fee for fees paid after December 31 of each year. An attorney who has paid the registration fee under this subsection and any applicable delinquent fees and who is otherwise eligible to practice law in this state shall be considered to be in active good standing.

Any attorney admitted to practice law in this State on a date subsequent to August 1 of each year shall, within ten (10) days of the date of his or her admission to the Bar of the Court, or by October 1 of said year, whichever date is later, pay a registration fee of ninety dollars (\$90.00). The Clerk of this Court shall furnish to the

Commission the names and addresses of all persons admitted to practice subsequent to August 1 of each year as said persons are admitted.

- (b) *Annual Registration Fee—Inactive or Retired Attorneys.* One-half (1/2) of the registration fee referred to in subsection (a) shall be required of an attorney who files with the Clerk, on or before the date the registration fee referred to in subsection (a) would otherwise be due, an affidavit of inactivity, stating that he or she is currently in active good standing, and that he or she neither holds judicial office nor is engaged in the practice of law in this State. A delinquent fee in the amount of fifty dollars (\$50.00) shall be added to the registration fee for fees paid after October 1 and on or before October 15 of each year; and a delinquent fee in the amount of one hundred dollars (\$100.00) shall be added to the registration fee for fees paid after October 15 of each year.

An attorney who is sixty-five (65) years old or older and files such an affidavit of inactivity may designate his or her affidavit as a Retirement Affidavit and shall thereafter be exempt from the payment of any registration fee. Such an affidavit of inactivity once filed shall be effective for each succeeding year, and as long as it is effective, in each succeeding year the attorney, unless otherwise exempt, shall pay the registration fee provided for in this subsection. An inactive attorney shall promptly notify the Clerk of a desire to return to active status, and pay the applicable registration fee for the current year, prior to any act of practicing law. An attorney who has paid the registration fee under this subsection and any applicable delinquent fees shall be considered to be in inactive good standing.

- (c) *IOLTA Certification.* Every lawyer admitted to practice law in this State shall, on or before October 1 of each year, certify to the Clerk of this Court that all client funds which are nominal in amount or to be held for a short period of time by the lawyer so that they could not earn income for the client in excess of the costs incurred to secure such income are held in an IOLTA account (as that term is defined in *Indiana Rules of Professional Conduct, Rule 1.15(d)*) of the lawyer or law firm or that the lawyer is exempt because:

- (1) the lawyer or law firm's client trust account has been exempted from and removed from the IOLTA program pursuant to Ind. Prof. Cond. R. 1.15(d)(67); or
- ~~(2) the lawyer has elected to decline to maintain the IOLTA account described in Ind. Prof. Cond. R. 1.15(d), in accordance with the procedures set forth in Ind. Prof. Cond. R. 1.15(f); or~~
- (3)(2) the lawyer:
 - (A) is not engaged in the private practice of law;
 - (B) does not have an office within the State of Indiana;
 - (C) is a judge, attorney general, public defender, U.S. attorney, district attorney, on duty with the armed services or employed by a local, state or federal government, and is not otherwise engaged in the private practice of law;
 - (D) is a corporate counsel or teacher of law and is not otherwise engaged in the private practice of law; ~~or~~
 - (E) has been exempted by an order of general or special application of this Court, which is cited in the certification; or

(F) Compliance with *Indiana Rule of Professional Conduct, Rule 1.15(f)* would work an undue hardship on the lawyer or would be extremely impractical, based either on the geographic distance between the lawyer's principal office and the closest depository institution which is participating in the IOLTA program, or on other compelling and necessitous factors.

(d) *Annual Registration Fee Notice.* On or before August 1 in each year, the Clerk of this Court shall mail to each attorney then admitted to the bar of this Court and in active or inactive good standing or practicing law in this state, a notice that: (i) the registration fee must be paid on or before October 1; and (ii) the certification required by subsection (c) of this rule and by Ind.Prof.Cond.R. 1.15(eg) must be filed with the Clerk on or before October 1. The Clerk shall also send a copy of such notice to each Clerk for each circuit and superior court in this State for posting in a prominent place in the courthouse and to the Indiana State Bar Association and such print and other media publishers of legal information as the Clerk reasonably determines appropriate. Provided, however, that the failure of the Clerk to send such notice will not mitigate the duty to pay the required fee and file the required certification.

(e) *Failure to Pay Registration Fee; Reinstatement.* Any attorney who fails to pay a registration fee required under subsection (a) or (b) or fails to file the certification required by subsection (c) of this rule and by Ind.Prof. Cond.R. 1.15(eg), shall be subject to sanctions for contempt of this Court in the event he or she thereafter engages in the practice of law in this State. In the event there is no other basis for the continued suspension of the attorney's license to practice law, such (existing language) an attorney's privilege to practice law shall be reinstated upon submission to the Clerk of a written application for reinstatement and payment of:

- (1) the applicable unpaid registration fee for the year of suspension;
- (2) any delinquent fees for the year of suspension due pursuant to subsection (a) or (b);
- (3) the applicable unpaid registration fee for the year of reinstatement, if different from the year of suspension;
- (4) a registration fee, including delinquent fees, in the amount referred to in subsection (b) for all intervening years of suspension; and
- (5) an administrative reinstatement fee of two hundred dollars (\$200.00).

The Clerk shall distribute the administrative reinstatement fee referred to in subsection (e)(5) in equal shares to the Disciplinary Commission Fund and the Continuing Legal Education Fund.

(f) *Reinstatement of Retired Attorneys.* In the event there is no basis for the suspension of the attorney's license to practice law, a retired attorney's privilege to practice law shall be reinstated upon submission to the Clerk of a written application of reinstatement and payment of:

- (6) the unpaid registration fee for the year of reinstatement;

- (7) a registration fee, including delinquent fees, in the amount referred to in subsection (b) for each year of retirement; and
- (8) an administrative reinstatement fee of two hundred dollars (\$200.00).

(g) *Certification of Good Standing.* The Clerk of this Court shall issue a certificate of active good standing or inactive good standing approved by this Court to any attorney upon the receipt of the annual registration fee and any applicable delinquent fees referred to in subsections (a) and (b), respectively. The Certificate of active good standing shall include a statement to the effect that the lawyer has either filed the certification required by subsection (c) of this rule, ~~or has elected to decline to maintain accounts in accordance with the provisions of said subsection.~~

(h) *Use of Funds.* All funds collected by the Clerk of this Court on behalf of the Disciplinary Commission shall be deposited in a special account to be maintained by the Clerk and designated "Clerk of the Courts-Annual Fees." As collected, the Clerk shall thereafter issue those funds to the Disciplinary Commission, and the Executive Secretary shall cause the same to be deposited into a special account designated "Supreme Court Disciplinary Commission Fund." Disbursements from the fund shall be made solely upon vouchers signed by or pursuant to the direction of the Chief Justice of this Court. All salaries to be paid shall be specifically ordered and approved by this Court.

(i) *Effective Dates.*

(1) The requirement in subsection (b) that inactive attorney pay an annual registration fee shall apply to all inactive attorneys and shall be effective for the annual fee due on or before October 1, 2002. Notwithstanding any other provision in this section, any inactive attorney who filed an affidavit of inactivity on or before October 1, 2001 and who, after suspension for nonpayment of the annual registration fee referred to in subsection (b), thereafter seeks reinstatement to active attorney registration or delinquent fees for any year prior to October 1, 2002.

(2) Notwithstanding any other provision in this section, any attorney who, after suspension for nonpayment of the annual registration fee referred to in subsection (a), thereafter seeks reinstatement to active attorney status pursuant to subsection (e), shall not be required to pay unpaid registration or delinquent fees pursuant to subsection (e)(4) for any year prior to October 1, 2002.

(3) Notwithstanding any other provision in this section, any retired attorney who seeks reinstatement to active attorney status pursuant to subsection (f) shall not be required to pay unpaid registration or delinquent fees pursuant to subsection (f)(2) for any year prior to October 1, 2002.

- (j) An attorney who fails to pay costs, expenses and reimbursements assessed pursuant to Section 10(f)(5) or 16 of this Rule by the due date of the annual registration fee required under subsection (a) or (b) shall be subject to an order of suspension from the practice of law as provided for in subsection (e).
- (k) An attorney in good standing and who is not the subject of an investigation into, or a pending proceeding involving, allegations of misconduct, who desires to relinquish permanently his or her license to practice law in the State of Indiana may do so by petitioning the Supreme Court and filing an Affidavit of Permanent Withdrawal from

the practice of law in this State. An attorney whose petition is granted shall not be eligible for reinstatement under section (e) or (f), but may apply for admission under Admission and Discipline Rule 3 through 21.

These amendments shall take effect July 1, 2005.

The Clerk of this Court is directed to forward a copy of this order to the clerk of each circuit court in the state of Indiana; Attorney General of Indiana; Legislative Services Agency and its Office of Code Revision; Administrator, Indiana Supreme Court; Administrator, Indiana Court of Appeals; Administrator, Indiana Tax Court; Public Defender of Indiana; Prosecuting Attorney's Council; Indiana Supreme Court Disciplinary Commission; Indiana Supreme Court Commission for Continuing Legal Education; Indiana Board of Law Examiners; Indiana Judicial Center; Division of State Court Administration; Indiana Judges and Lawyers Assistance Program; the Indiana Bar Foundation, 230 E. Ohio Street, 2nd Floor, Indianapolis, IN 46204, the libraries of all law schools in this state; the Michie Company; and the West Group.

The West Group is directed to publish this Order in the advance sheets of this Court.

The Clerks of the Circuit Courts are directed to bring this Order to the attention of all judges within their respective counties and to post this Order for examination by the Bar and general public.

DONE at Indianapolis, Indiana, this _____ day February, 2005.

Randall T. Shepard
Chief Justice of Indiana

All Justices concur.